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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANWAR, et al. v. FAIRFIELD GREENWICH LIMITED, et al.	:	Master File No. 09 CV 0118 (VM)
	:	09 CV 2366 (VM) (Ferber Action)
	:	09 CV 2588 (VM) (Pierce Action)

DERIVATIVE PLAINTIFFS' RESPONSE TO MOTIONS FOR APPOINTMENT OF LEAD PLAINTIFFS AND LEAD COUNSEL WITH RESPECT TO FEDERAL SECURITIES CLAIMS

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Plaintiffs David Ferber SEP IRA, Frank E. Pierce and Frank E. Pierce IRA (collectively, the "Derivative Plaintiffs") submit this memorandum in response to the motions of the Anwar plaintiffs, the Knight plaintiffs, and the so-called "Fairfield Investor Group" (collectively, "Class Plaintiffs") for appointment of lead plaintiffs and lead counsel with respect to the federal securities class action claims. *See* Dkt. Nos. 127, 130, 133.

The Derivative Plaintiffs filed derivative actions in New York state court, and the actions have been removed to this Court.[1] The Derivative Plaintiffs have subsequently filed motions to remand the actions and to vacate prior orders consolidating the actions with *Anwar*. *See* Dkt. Nos. 88, 90.

The Derivative Plaintiffs take no position with respect to the competing motions filed by the Class Plaintiffs. The Derivative Plaintiffs, however, submit this memorandum to eliminate possible confusion created by the movants' statements. Specifically, the Knight plaintiffs state that the *Ferber* action is among several actions "alleging state law claims that comprise the Consolidated Action …." Dkt. No. 131 at 3 n.3. The Anwar plaintiffs represent that they filed a Consolidated Amended Complaint that "incorporated the allegations of the various common-law claims in previously filed actions …." Dkt. No. 134 at 3.

The "Consolidated Amended Complaint" (Dkt. No. 116), however, does *not* assert the derivative claims. Rather, it asserts only direct, class claims. Counsel for the Anwar plaintiffs has previously acknowledged this fact. *See* 4/24/09 Letter of Robert C. Finkel, Esq. to the Court, at 1-2; *see also* Dkt. No. 134 at 5 ("As fiduciaries *for the Class*, the Anwar Plaintiffs, if selected as lead plaintiffs, would use their judgment in vigorously prosecuting the claims that are most beneficial and likely to provide relief *for the Class*.") (emphasis supplied).

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[1] *Ferber* and *Pierce* are derivative actions on behalf of Greenwich Sentry, L.P. and Greenwich Sentry Partners, L.P., respectively.

Dated: May 18, 2009

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